

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR-CBOE-2010-026 and should be submitted on or before April 8, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61675; File No. SR-ISE-2010-17]

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Customer Fees for the Block Order Mechanism

March 9, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 1, 2010, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to adopt a fee for certain customer orders executed in the Exchange's Block Order Mechanism.

The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.com>), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

On October 1, 2009, the Exchange implemented a new order type, Professional Orders,<sup>3</sup> and adopted a \$0.20 per contract fee for Professional Orders for their crossing activity, i.e., their interaction in the Exchange's Facilitation, Solicitation and Price Improvement Mechanisms.<sup>4</sup> ISE adopted this fee on the belief that trading in the Exchange's crossing order mechanisms is primarily activity that is conducted by broker-dealers and thus it is reasonable for the Exchange to charge non-broker-dealer orders that conduct a Professional Order business the same fee the Exchange charges broker-dealer orders. ISE now proposes to adopt a similar \$0.20 per contract fee for Professional Orders that interact in the Exchange's Block Order Mechanism. The Exchange believes that executing orders in the Block Order Mechanism is also characteristic of professional traders and thus should be subject to a fee.

###### 2. Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the

<sup>3</sup> A "Professional Order" is defined by the Exchange to mean an order that is for the account of a person or entity that is not a Priority Customer. A "Priority Customer" is defined by the Exchange to mean a person or entity that is (i) not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

<sup>4</sup> See Exchange Act Release No. 60861 (October 22, 2009), 74 FR 55872 (October 29, 2009).

Exchange Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>6</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, the proposed rule change will allow the Exchange to charge a similar fee to both broker-dealer orders and certain non-broker-dealer orders that interact in the Exchange's Block Order Mechanism.

##### B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

##### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act<sup>7</sup> and Rule 19b-4(f)(2)<sup>8</sup> thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-ISE-2010-17 on the subject line.

<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

<sup>12</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

### Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2010–17. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commissions Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2010–17 and should be submitted by April 8, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61683; File No. SR–NYSEArca–2010–10]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Listing of HTE Global Relative Value ETF

March 10, 2010.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the

“Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that, on February 25, 2010, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade the following Managed Fund Shares<sup>4</sup> (“Shares”) under NYSE Arca Equities Rule 8.600: HTE Global Relative Value ETF. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to list and trade the following Managed Fund Shares<sup>5</sup> (“Shares”) under NYSE Arca

Equities Rule 8.600: HTE Global Relative Value ETF (the “Fund”).<sup>6</sup> The Shares will be offered by AdvisorShares Trust (the “Trust”), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.<sup>7</sup>

##### HTE Global Relative Value ETF

The investment advisor to the Fund is AdvisorShares Investments, LLC (the “Advisor”). HTE Asset Management, LLC is the sub-advisor to the Fund (“Sub-Advisor”). Foreside Fund Services, LLC is the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon is the administrator, transfer agent and custodian for the Fund.

Commentary .07 to Rule 8.600 provides that, if the investment adviser to the Investment Company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser

registered under the Investment Company Act of 1940 (15 U.S.C. 80a) (“1940 Act”) organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment advisor consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

<sup>6</sup> The Commission previously approved listing and trading on the Exchange of the following actively managed funds under Rule 8.600. See Securities Exchange Act Release Nos. 57619 (April 4, 2008), 73 FR 19544 (April 10, 2008) (SR–NYSEArca–2008–25) (order approving Rule 8.600 and Exchange listing and trading of PowerShares Active AlphaQ Fund, PowerShares Active Alpha Multi-Cap Fund, PowerShares Active Mega-Cap Portfolio and PowerShares Active Low Duration Portfolio); 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 59826 (April 28, 2009), 74 FR 20512 (May 4, 2009) (SR–NYSEArca–2009–22) (order approving Exchange listing and trading of Grail American Beacon Large Cap Value ETF); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR–NYSEArca–2009–55) (order approving Exchange listing and trading of Dent Tactical ETF); 60717 (September 24, 2009), 74 FR 50853 (October 1, 2009) (SR–NYSEArca–2009–74) (order approving listing of four Grail Advisors RP ETFs); 60975 (November 10, 2009), 74 FR 59590 (November 18, 2009) (SR–NYSEArca–2009–83) (order approving listing of Grail American Beacon International Equity ETF); 60981 (November 10, 2009), 74 FR 59594 (November 18, 2009) (SR–NYSEArca–2009–79) (order approving listing of five fixed income funds of the PIMCO ETF Trust).

<sup>7</sup> The Trust is registered under the 1940 Act. On December 29, 2009, the Trust filed with the Commission Post-Effective Amendment No. 2 to Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) relating to the Fund (File Nos. 333–157876 and 811–22110) (the “Registration Statement”). The description of the operation of the Trust and the Fund herein is based on the Registration Statement.

<sup>9</sup> 17 CFR 200.30–3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

<sup>4</sup> A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a) (“1940 Act”) organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment advisor consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

<sup>5</sup> A Managed Fund Share is a security that represents an interest in an investment company